FILED
OCT 19 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 8857

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOSE ALFONSO TORRES,
Defendant.

MAGISTRATE CASE NO.:

COMPLAINT FOR VIOLATION OF

Title 18, U.S.C., Section 111 Assault on a Federal Officer (Felony); Title 8 U.S.C. Section 1324 (a)(1)(A)(iii), Alien Harboring

The undersigned complainant, being duly sworn, states:

Count 1.

That on or about October 18, 2007, within the Southern District of California, defendant JOSE ALFONSO TORRES did willfully and forcibly assault, resist, oppose, impede or interfere with a person named in Title 18, United States Code, Section 1114, to wit, U.S. Customs & Border Protection, U.S. Border Patrol Agent Joseph Edward Kirby, was engaged in the performance of his official duties; in violation of Title 18, United States Code, Section 111(a)(1).

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Count 2.

That on or about October 18, 2007, within the Southern District of California, defendant JOSE ALFONSO TORRES did knowingly or in reckless disregard of the fact that Jose Filommeno, an alien, had entered or remained in the United States in violation of law, did attempt to shield, harbor, or conceal Jose Filommeno from detection, in a building, to wit, 739 Encinas Ave., Calexico, CA, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii).

And the complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

Zachary Delecki, Special Agent
Federal Bureau of Investigation

SWORN TO ME AND SUBSCRIBED IN MY PRESENCE THIS 19TH DAY OF OCTOBER, 2007.

PETER C. LEWIS
U.S. Magistrate Judge

UNITED STATES OF AMERICA
v.
JOSE ALFONSO TORRES (1)

STATEMENT OF FACTS

I, Special Agent Zachary Delecki, declare under penalty of perjury, the following is true and correct:

These facts are based on my personal participation in this investigation, as well as written and oral statements received from other law enforcement officers. I submit that the facts contained in this statement demonstrate that probable cause exists to believe that the defendants named in the attached complaint committed the crime charged in the complaint. Additionally, since this statement is being submitted for the purpose of supporting a criminal complaint, I have not included each and every fact known to me about the defendant or this investigation. I have included only those facts which I believe are necessary to establish probable cause to believe that the defendants have committed the crime alleged in the complaint.

At approximately 2:30 A.M., on Thursday, October, 18, 2007, United States Border Patrol (USBP) Agent Joseph Edward Kirby, was assigned to the work the United States and Mexican border in Calexico, California. Agent Kirby received a radio report from another Border Patrol Agent alerting him to a person(s) expected to cross into the United States from Mexico near his position. A short time later Agent Kirby heard the fence rattle and saw an individual, later identified as Jose Filommeno run north approximately ten yards behind his vehicle. Agent Kirby responded in his marked patrol vehicle to 739 Encinas where he witnessed Filommeno towards 739 Encinas Ave., in Calexico, CA. Agent Kirby then exited his vehicle and pursued

Filommeno on foot. Agent Kirby saw Filommeno run into 739 Encinas Ave., Apt. B. Agent Kirby pursued Filommeno into the apartment but was stopped when the front door was slammed on him. Agent Kirby had one arm through the door and a foot inside the door. Agent Kirby identified himself as a Border Patrol Agent and ordered the person on the other side of the door to open it. The individual on the other side of the door, later identified as Jose Torres, slammed the door several times on Agent Kirby.

Agent Kirby sustained a laceration to the head, approximately two inches long which bled profusely and required medical treatment.

Finally, the affiant states that JOSE FILOMMENO is a citizen of a country other than the United States; that said alien has admitted that he is deportable; that his testimony is material; that it is impracticable to secure his attendance at the trial by subpoena; and he is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.